

1 PHILLIP A. TALBERT
2 United States Attorney
3 DENNIS L. LEWIS
4 Special Assistant United States Attorney
5 2500 Tulare Street, Suite 4401
6 Fresno, CA 93721
7 Telephone: (559) 497-4000
8 Facsimile: (559) 497-4099

9
10
11 Attorneys for Plaintiff
12 United States of America

13
14 IN THE UNITED STATES DISTRICT COURT
15 EASTERN DISTRICT OF CALIFORNIA

16
17 UNITED STATES OF AMERICA,
18 Plaintiff,
19 v.
20 CARLOS JESUS JORDAN LOPEZ,
21 Defendant.

22 CASE NO. 1:23-MJ-00111-EPG

23 STIPULATION REGARDING EXCLUDABLE
24 TIME PERIODS UNDER SPEEDY TRIAL ACT;
25 FINDINGS AND ORDER

26 DATE: December 1, 2023
27 TIME: 2:00 p.m.
28 COURT: Hon. Barbara A. McAuliffe

29
30 This case is set for a preliminary hearing on December 1, 2023. The parties agree and stipulate
31 to continue the preliminary hearing until February 2, 2023, at 2:00 p.m. before the duty magistrate.
32 Defense counsel has continued to be engaged in discussions and further investigation and needs
33 additional time to conclude that process. Additionally, the parties are engaged in discussions and
34 investigation of issues related to a possible pre-indictment resolution as well as consultation with or
35 seeking consultation with experts. There are complex factual and legal issues the parties are exploring
36 and believe that additional time to conclude that process will be productive in moving the case forward.
37 Discovery necessary for this process, including multimedia, are being prepared and will be provided to
38 the defense within the next week.

39
40 If the case is continued, this Court should designate a new date for the preliminary hearing.
41 *United States v. Lewis*, 611 F.3d 1172, 1176 (9th Cir. 2010) (noting any pretrial continuance must be
42 “specifically limited in time”).

1 **STIPULATION**

2 Plaintiff United States of America, by and through its counsel of record, and defendant, by and
3 through defendant's counsel of record, hereby stipulate as follows:

- 4 1. By previous order, this matter was set for preliminary hearing on December 1, 2023.
- 5 2. By this stipulation, defendant now moves to continue the preliminary hearing until
6 **February 2, 2023, at 2:00 p.m.** and to exclude time between December 1, 2023, and February 2, 2023.
- 7 3. The parties agree and stipulate, and request that the Court find the following:
 - 8 a) The parties are discussing and conducting further investigation into pre-
indictment matters and need additional time to conclude.
 - 9 b) Counsel for defendant desires additional time to consult with her client, conduct
further investigation, and further discuss charges with the government.
 - 10 c) Counsel for the defendant and the Government are engaged in resolution
discussions and believe that additional time is necessary to conclude those discussions.
 - 11 d) Counsel for defendant believes that failure to grant the above-requested
continuance would deny her the reasonable time necessary for effective preparation, taking into
account the exercise of due diligence.
 - 12 e) The government does not object to the continuance.
 - 13 f) Pursuant to F.R.Cr.P. 5.1(c) and (d), a preliminary hearing must be held "no later
than 14 days after initial appearance if the defendant is in custody," unless the defendant
consents and there is a "showing of good cause". Here, the defendant consents and there is good
cause as set forth herein.
 - 14 g) Based on the above-stated findings, the ends of justice served by continuing the
case as requested outweigh the interest of the public and the defendant in an indictment or trial
within the original dates prescribed by the Speedy Trial Act.
 - 15 h) For the purpose of computing time under the Speedy Trial Act, 18 U.S.C. § 3161,
et seq., within which an indictment must be filed and within which a trial must commence, the
time period of December 1, 2023 to February 2, 2023, inclusive, is deemed excludable pursuant
to 18 U.S.C. § 3161(h)(7)(A), B(iv) because it results from a continuance granted by the Court at

1 defendant's request on the basis of the Court's finding that the ends of justice served by taking
2 such action outweigh the best interest of the public and the defendant in a speedy
3 indictment/trial.

4. Nothing in this stipulation and order shall preclude a finding that other provisions of the
5 Speedy Trial Act dictate that additional time periods are excludable from the period within which an
6 indictment must be filed and a trial must commence.

7 IT IS SO STIPULATED.

8 Dated: November 28, 2023

PHILLIP A. TALBERT
United States Attorney

12 Dated: November 28, 2023

/s/ DENNIS L LEWIS

DENNIS L LEWIS
Assistant United States Attorney

/s/ JESSICA GUTIERREZ

JESSICA GUTIERREZ
Counsel for Defendant
CARLOS JESUS JORDAN
LOPEZ

17 **ORDER**

18 IT IS SO ORDERED that the preliminary hearing is continued from December 1, 2023, to
19 **February 2, 2024, at 2:00 p.m. in Courtroom 8 before Magistrate Judge Barbara A. McAuliffe.** Time
20 is excluded pursuant to 18 U.S.C. § 3161(h)(7)(A), B(iv).

22 IT IS SO ORDERED.

23 Dated: November 28, 2023

/s/ Barbara A. McAuliffe

24 UNITED STATES MAGISTRATE JUDGE